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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/130,593

08/07/1998

HERBERT GUST

6479

30996

7590

05/20/2002

ROBERT W. BECKER & ASSOCIATES
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SUITE B
TIJERAS, NM 87059

EXAMINER

NOLAN, SANDRA M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 05/20/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D - 18

Office Action Summary	Applicati n No.		Applicant(s)	
	09/130,593		GUST, HERBERT	
	Examin r		Art Unit	
	Sandra M. Nolan		1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Following entry of the response dated February 27, 2002 (which did not amend the application), claims 1-25 are pending.

Election/Restrictions

2. This application contains claims 17-25 drawn to an invention nonelected with traverse as discussed in the Office Action of November 21, 2000 (Paper No. 7).
3. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The priority document was submitted on January 2, 2002 (Paper No. 15).

Rejections Maintained

- W/D
5. The 35 USC 112 rejection of claims 1-16 for new matter, as set out in section 16 of the August 13, 2002 Office Action (Paper No. 14), is maintained for reasons of record.
 6. The 35 USC 103 rejection of claims 1-16 as unpatentable over Heine (US 5,874,170 in view of Krause (US 5,958,532), as expressed in section 4 of Paper no. 14, is maintained for reasons of record.
- K

Response to Arguments

7. Applicant's arguments filed in Paper No. 17 have been fully considered but they are not persuasive.

The arguments in Paper No. 17 will be responded to in the order in which they were presented.

On page 2 of the response, applicant argues that the term is "morphologically" is not recited literally in the original disclosure, but that the plasma treatment that is claimed provides a "micro-sandblasting effect" to the surface.

However, the claims do not recite the presence of the "micro-sandblasting effect" on the surface. Accordingly, applicant is arguing a limitation that is not recited in the claims.

Note: The reference to "lack of enablement" on page 2 of Paper No. 2 is not understood. The rejection of claims 1-16 in section 6 of Paper No. 14 was for new matter, not for lack of enablement. Also, the Office Action of November 21, 2000 (Paper No. 7) did not recite a 35 USC 112 rejection.

On page 2, applicants state that Webster's New World Dictionary defines "morphology" to mean "[a]ny scientific study of form and structure, as in physical geography; form and structure, as of an organism, regarded as a whole." And then state that "morphological" means "the surface structure in a micro-region." [Paper No. 17, page 2, second full paragraph]

However, the quoted definition of "morphological" does not correspond to the Webster's definition of "morphology". Thus applicant appears to cite Webster's as an

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authority and then set up a definition that is at odds with the Websters definition.

Please clarify.

On page 2, in the third full paragraph, applicant argues that the specification's literal language says, on page 3, lines 7-11: "... wherein said plasma treated connecting portion (7) is in a micro-sandblasting effect and chemically altered in a micro area..." and offers to insert this language into the claims.

However, the examiner is unable to find the quoted language in the passage referred to. Its addition to the claims would be considered new matter and render the claims subject to another 35 USC 112 rejection.

In the paragraph bridging pages 2 and 3, applicant argues, again, that the micro-sandblasting effect that it achieved constitutes a morphological change to the surface. However, the language "micro-sandblasting effect" is not recited in the claims and—as best understood by the examiner—the equivalence of this effect and the term "morphological" has not been established on the record.

On page 3, applicants attempt to redefine the term "morphological" by stating that "morphological changes" referred to "physical or structural changes".

However, the definition of "morphology" (on page 2, in the second full paragraph, of Paper No. 17) says that "morphology" refers to a different concept. See the discussion of page 2's arguments above.

On page 3, applicant argues that Krause says, at col. 2, lines 4-17, that the physical structure of the plasma treated substrate is not changed by that treatment.

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However, Krause says, at col. 6, lines 48+ that the chemical reactivity of the substrate is changed by plasma treatment, so that functional groups are inserted into the molecular structure of the substrate. Thus, Krause's treatment effects chemical and structural changes, which changes suggest the chemical and morphological alteration now called for by claim 1 (assuming the correctness of Webster's definition of "morphology" shown at page 2 of Paper No. 17).

On page 4, applicant argues that the plasma activation that is carried out in the instant invention is not similar to the plasma polymerization that applicants have found in Heine.

However, "plasma activation" is not recited in the claims. Again, applicant is arguing a limitation that his claims do not recite. The claims recite "plasma treatment" and the Heine/Krause combination suggests such treatment because Krause uses plasma treatment.

On page 5, applicant argues that the Heine reference requires the use of a plastic material between the sealing member (4, 4') and the carrier body (2, 2'). Note col. 2, lines 48-54 where the operation of the plastic material is described.

However, applicant's claims do not exclude a plastic material between the parts of his component that are to be adhered. Applicant's claim 1, as presented recited, says "wherein an adhesion supporting intermediate component is not necessary for an adhesive connection." This language does not exclude the use of such an intermediate. It merely states that it is not necessary.

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In the paragraph bridging pages 5 and 6, applicant argues that the result of combining the teachings would result in something other than what applicant claims—i.e., it would result in two components attached via an intermediate whose surface is plasma treated to give only chemical changes therein.

However, even assuming *arguendo* that this is so, the claims do not exclude the use of an intermediate and/or chemical changes in the surface of it or either of the substrates to be adhered. In fact the term “chemically . . . altered” (recited in the third from last line of claim 1) is consistent with Krause’s characterization of the effects of its plasma treatment.

Final Rejection

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



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May 13, 2002



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 5/13/02